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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

-oOo-

UNITED STATES OF AMERICA,  
Plaintiff,

vs

JAMES RICHARD WILLIAMS,  
Defendant.

2:12-cr-0211-JCM-RJJ

PLEA MEMORANDUM

The United States, by and through DANIEL G. BOGDEN, United States Attorney, and AMBER CRAIG, Assistant United States Attorney, JAMES RICHARD WILLIAMS ("Defendant"), and Defendant's attorney, JONATHAN SUSSMAN, Assistant Federal Public Defender, submit this plea memorandum.

I.

AGREEMENT

The United States and the defendant have reached the following plea agreement, which is not binding on the court:

A. The Plea

The Defendant will waive his right to indictment by a grand jury and plead guilty to a Criminal Information, charging one count of Armed Bank Robbery, in violation of Title 18, United States Code, Sections 2113(a) and (d). Defendant also agrees to the forfeiture of the

property set forth in the Forfeiture Allegation of the Information.

**B. Additional Charges**

The United States will bring no additional charge or charges against the defendant arising out of the investigation in the District of Nevada which culminated in this Plea Memorandum.

**C. Sentencing Guideline Calculations**

1. Defendant understands that the court is required to consider United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines"), among other factors, in determining defendant's sentence. Defendant understands that the Sentencing Guidelines are advisory, and that after considering the Sentencing Guidelines, the court may be free to exercise its discretion to impose any reasonable sentence up to the maximum set by statute for the crimes of conviction.

2. The parties agree to the following calculations of the Sentencing Guidelines:

Base Offense Level [U.S.S.G. §2B3.1(a)]:	20
Property of a Financial Institution [U.S.S.G. §2B3.1(b)(1)]:	+2
Firearm Discharged [U.S.S.G. §2B3.1(b)(2)(A)]:	+7
Reckless Endangerment During Flight [U.S.S.G. §3C1.2]:	+2
Acceptance of Responsibility [U.S.S.G. §3E1.1(a)]:	-2
Timely Plea [U.S.S.G. §3E1.1(b)]:	-1

**Total Offense Level: 28**

3. The parties agree that no other specific offense characteristics apply.

4. The Defendant understands that the Defendant's base offense level could be increased if the Defendant qualifies as a career offender under U.S.S.G. §§ 4B1.1 and 4B1.2. In the event that the Defendant's offense level is so altered, the parties are not bound by the base offense level stipulated to above.

5. Pursuant to U.S.S.G. §3E1.1(a) the United States will recommend that Defendant receive a two-level adjustment for acceptance of responsibility unless Defendant (a) fails to make a complete factual basis for the guilty plea at the time it is entered; (b) is untruthful with the Court or probation officers; (c) denies involvement in the offense or provides conflicting

1 statements regarding Defendant's involvement; (d) attempts to withdraw the guilty plea; (e)  
2 engages in criminal conduct; (f) fails to appear in court; or (g) violates the conditions of pretrial  
3 release.

4           6. Under U.S.S.G. §3E1.1(b), the United States will, in its sole discretion,  
5 make a motion for an additional one-level adjustment for acceptance of responsibility prior to  
6 sentencing if Defendant timely notifies the United States of Defendant's intention to plead guilty,  
7 thereby permitting the United States to avoid preparing for trial and allowing for the efficient  
8 allocation of resources.

9           7. The Defendant agrees that the court may consider any counts dismissed  
10 under this agreement, along with all other relevant conduct whether charged or uncharged, in  
11 determining the applicable sentencing guidelines range, the propriety and extent of any departure  
12 from that range, and the determination of the sentence to be imposed after consideration of the  
13 sentencing guidelines and all other relevant factors.

14           8. Defendant's Criminal History Category will be determined by the court.

15 **D. Other Sentencing Matters**

16           1. The United States will recommend that Defendant be sentenced to the low-  
17 end of the Guideline range unless Defendant commits any of the acts that could result in a loss of  
18 the downward adjustment for acceptance of responsibility. In exchange for the recommendation,  
19 the Defendant will not request a sentence below the Guideline range contemplated by the parties  
20 based on the offense level set forth above on page two (2), section C, paragraph one (1) of this Plea  
21 Memorandum, nor a downward adjustment pursuant to Title 18, United States Code, Section 3553  
22 from any sentence that may be imposed within the Guideline range contemplated by the parties.  
23 Additionally, the Defendant will not seek a downward departure pursuant to U.S.S.G. §5K1.1.

24           2. The parties agree that the Guideline calculations are based on information  
25 now known and could change upon investigation by the United States Probation Office. It is  
26 possible that factors unknown or unforeseen by the parties to the plea agreement may be

1 considered in determining the offense level, specific offense characteristics, and other related  
2 factors. In that event, defendant will not withdraw defendant's plea of guilty.

3 3. The stipulations in this agreement do not bind either the United States  
4 Probation Office or the court. Both defendant and the United States are free to: (a) supplement the  
5 facts by supplying relevant information to the United States Probation Office and the court, and  
6 (b) correct any and all factual misstatements relating to the calculation of the sentence.

7 **E. Fines and Special Assessment**

8 1. Defendant agrees that the court may impose a fine due and payable  
9 immediately upon sentencing.

10 2. Defendant will pay the special assessment of \$100 per count of conviction at  
11 the time of sentencing.

12 **F. Restitution**

13 Defendant agrees to make full restitution in an amount to be determined by the Court,  
14 which defendant agrees shall include all relevant conduct as determined by the Court. Defendant  
15 understands that any restitution imposed by the Court may not be discharged in whole or in part in  
16 any present or future bankruptcy proceeding.

17 **G. Waiver of Appeal**

18 In exchange for the concessions made by the United States in this plea agreement,  
19 defendant knowingly and expressly waives the right to appeal any sentence that is imposed within  
20 or below the applicable Sentencing Guideline range as determined by the Court, further waives the  
21 right to appeal the manner in which that sentence was determined on the grounds set forth in Title  
22 18, United States Code, Section 3742, and further waives the right to appeal any other aspect of the  
23 conviction or sentence, including any order of restitution. Defendant also waives all collateral  
24 challenges, including any claims under Title 28, United States Code, Section 2255, to his  
25 conviction, sentence, and the procedure by which the Court adjudicated guilt and imposed  
26 sentence, except non-waivable claims of ineffective assistance of counsel. Defendant reserves only

1 the right to appeal any portion of the sentence that is an upward departure or higher than the  
2 sentencing guideline range determined by the parties.

3 **H. Additional Promises, Agreements, and Conditions**

4 1. In exchange for the United States entering into this agreement, defendant agrees that  
5 (a) the facts set forth in Section IV of this Plea Agreement shall be admissible against defendant  
6 under Fed. R. Evidence. 801(d)(2)(A) in the following circumstances: (1) for any purpose at  
7 sentencing; and (2) in any subsequent proceeding, including a trial in the event defendant does not  
8 plead guilty or withdraws defendant's guilty plea, to impeach or rebut any evidence, argument or  
9 representation offered by or on defendant's behalf; and (b) defendant expressly waives any and all  
10 rights under Fed. R. Criminal P. 11(f) and Fed. R. Evid. 410 with regard to the facts set forth in  
11 Section IV of the Plea Agreement to the extent set forth above.

12 2. The parties agree that no promises, agreements, and conditions have been entered  
13 into other than those set forth in this plea memorandum, and not will be entered into unless in  
14 writing and signed by all parties.

15 **I. Limitations**

16 This Plea Agreement is limited to the United States Attorney's Office for the District of  
17 Nevada and cannot bind any other federal, state or local prosecuting, administrative, or regulatory  
18 authority. However, this Plea Memorandum does not prohibit the United States through any  
19 agency thereof, the United States Attorney's office for the District of Nevada, or any third party  
20 from initiating or prosecuting any civil proceeding directly or indirectly involving defendant,  
21 including but not limited to, proceedings under the False Claims Act relating to potential civil  
22 monetary liability or by the Internal Revenue Service relating to potential tax liability.

23 **J. Forfeiture**

24 1. Defendant knowingly and voluntarily agrees to the abandonment, the civil  
25 administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the:  
26

1           a)     Titan, .25 caliber semi-automatic pistol, black and silver with wood grain  
2                     handle, Serial No. ED86124; and

3           b)     any and all ammunition ("property").

4                     2. Defendant knowingly and voluntarily agrees to abandon or to forfeit the property  
5 to the United States.

6                     3. Defendant knowingly and voluntarily agrees to relinquish all right, title, and  
7 interest in the property.

8                     4. Defendant knowingly and voluntarily agrees to waive his right to any  
9 abandonment proceedings, any civil administrative forfeiture proceedings, any civil judicial  
10 forfeiture proceedings, or any criminal forfeiture proceedings ("proceedings") of the property.

11                    5. Defendant knowingly and voluntarily agrees to waive service of process of any  
12 and all documents filed in this action or any proceedings concerning the property arising from the  
13 facts and circumstances of this case.

14                    6. Defendant knowingly and voluntarily agrees to waive any further notice to him,  
15 his agents, or his attorney regarding the abandonment or the forfeiture and disposition of the  
16 property.

17                    7. Defendant knowingly and voluntarily agrees not to file any claim, answer,  
18 petition, or other documents in any proceedings concerning the property.

19                    8. Defendant knowingly and voluntarily agrees to waive the statute of limitations,  
20 the CAFRA requirements, Fed. R. Crim. P. 7 and 32.2, the constitutional requirements, and the  
21 constitutional due process requirements of any abandonment proceeding or any forfeiture  
22 proceeding concerning the property.

23                    9. Defendant knowingly and voluntarily agrees to waive his right to a jury trial on  
24 the forfeiture of the property.

25                    10. Defendant knowingly and voluntarily agrees to waive (a) all constitutional,  
26 legal, and equitable defenses to, (b) any constitutional or statutory double jeopardy defense or

1 claim concerning, and (c) any claim or defense under the Eighth Amendment to the United States  
2 Constitution, including, but not limited to, any claim or defense of excessive fines or cruel and  
3 unusual punishment in any proceedings concerning the property.

4 11. Defendant knowingly and voluntarily agrees to the entry of an Order of  
5 Forfeiture of the property to the United States.

6 12. Defendant knowingly and voluntarily agrees and understands the abandonment,  
7 the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the  
8 property shall not be treated as satisfaction of any assessment, fine, restitution, cost of  
9 imprisonment, or any other penalty this Court may impose upon the Defendant in addition to the  
10 abandonment or the forfeiture.

11 **II.**

12 **PENALTY**

13 1. The maximum penalty for the offense of Armed Bank Robbery, Title  
14 18, United States Code, Sections 2113(a) and (d), is not more than twenty-five (25) years  
15 imprisonment, a fine of not more than two hundred fifty thousand dollars (\$250,000), or both.

16 2. Defendant is subject to a supervised release for a term not exceeding five (5) years.  
17 Supervised release is a period of time following imprisonment during which defendant will be  
18 subject to various restrictions and requirements. Defendant understands that if defendant violates  
19 one or more of the conditions of any supervised release imposed, defendant may be returned to  
20 prison for all or part of the term of supervised release, which could result in defendant serving a  
21 total term of imprisonment greater than the statutory maximum stated above.

22 3. Defendant must pay a special assessment of one-hundred (\$100) for each count of  
23 conviction.

24 4. Defendant is required to pay for the costs of imprisonment, probation, and  
25 supervised release, unless defendant establishes that defendant does not have the ability to pay such  
26 costs, in which case the court may impose an alternative sanction such as community service.



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**III.**

**ELEMENTS**

The essential elements for the crime of Armed Bank Robbery, Title 18, United States Code, Sections 2113(a) and (d), are the following:

1. The defendant took money belonging to a financial institution;
2. The defendant used force and violence, or intimidation in doing so;
3. The deposits of the financial institution were then insured by the Federal Deposit Insurance Corporation; and
4. The defendant intentionally made a display of force that reasonably caused another to fear bodily harm by utilizing a firearm.

*See NINTH CIR. MANUEL OF MODEL JURY INSTR., Criminal 8.162 (2010 ed.).*

**IV.**

**FACTS THAT SUPPORT GUILTY PLEA**

1. Defendant is pleading guilty because defendant is guilty of the charged offense.
2. In pleading to the offenses, defendant acknowledges that if defendant elected to go to trial instead of entering this plea, the United States could prove facts sufficient to establish defendant's guilt beyond a reasonable doubt.
3. Defendant specifically admits and declares under penalty of perjury that all of the facts set forth below are true and correct:

On or about April 16, 2012, Defendant James Richard Williams, aided and abetted by co-defendant Keyunna Latress Johnson, robbed the U.S. Bank located at 5891 W. Craig Road, Las Vegas, Nevada, of approximately \$7,575.00 in United States currency through the use of force, violence, and intimidation. Defendant entered the bank wearing a mask/hood, approached the victim tellers, pointed a gun at the, and stated, "Give me money now, now. I have a gun. Hurry up. Money, money, money now." The victim teller gave the Defendant United States currency that contained bait bills and a tracking device. At the time of the robbery, the deposits of the U.S. Bank were insured by the Federal Deposit Insurance Corporation.



1 Defendant fled the bank in a vehicle driven by co-defendant Johnson, but they soon  
2 switched places so that Defendant could drive. Officers with the Las Vegas Metropolitan Police  
3 Department began to follow the vehicle, which matched the description provided by the victim  
4 tellers, with the help of the tracking device. A high-speed pursuit ensued, during which Defendant  
5 tried to ram officers' vehicles, swerved around spike strips deployed by officers, and drove into  
6 oncoming traffic. Defendant drove through a red light and both he and Johnson jumped from the  
7 moving vehicle, which continued to travel and crashed into a residential fence. Defendant, who  
8 jumped from the car with the gun he used in the bank robbery, shot himself in the head and was  
9 apprehended.

10 All of the foregoing facts occurred in the State and Federal District of Nevada .

11 V.

12 **ACKNOWLEDGMENT**

13 1. Defendant acknowledges by his signature below that he has read this Memorandum of  
14 Plea Agreement, understands the terms and conditions, and the factual basis set forth herein, that he  
15 has discussed these matters with his attorney, and that the matters set forth in this memorandum,  
16 including the facts set forth in Part IV above are true and correct.

17 2. Defendant acknowledges that defendant has been advised, and understands, that by  
18 entering a plea of guilty defendant is waiving, that is, giving up, certain rights guaranteed to defendant  
19 by law and by the Constitution of the United States. Specifically, defendant is giving up:

20 a. The right to proceed to trial by jury on the original charges, or to a trial by a  
21 judge if defendant and the United States both agree;

22 b. The right to confront the witnesses against defendant at such a trial, and to  
23 cross-examine them;

24 c. The right to remain silent at such trial, with such silence not to be used against  
25 defendant in any way;

26 d. The right, should defendant so choose, to testify in defendant's own behalf at  
such a trial;

1 e. The right to compel witnesses to appear at such a trial, and to testify in  
2 defendant's behalf; and,

3 f. The right to have the assistance of an attorney at all stages of such  
4 proceedings.

5 3. Defendant, defendant's attorney, and the attorney for the United States  
6 acknowledge that this Plea Memorandum contains the entire agreement negotiated and agreed to by  
7 and between the parties, and that no other promise has been made or implied by either defendant,  
8 defendant's attorney, or the attorney for the United States.

9 DANIEL G. BOGDEN  
10 United States Attorney

11  
12 6/11/12  
13 DATED

14 Amber M. Craig  
15 AMBER M. CRAIG  
16 Assistant United States Attorney

17  
18 6/8/12  
19 DATED

20 James R. Williams  
21 JAMES RICHARD WILLIAMS  
22 Defendant

23  
24 6/8/12  
25 DATED

26 Jonathan Sussman  
JONATHAN SUSSMAN  
Counsel for Defendant